

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

WA.No. 1329 of 2007()

AGAINST THE JUDGEMENT IN WPC.16942/2007 Dated 04/06/2007
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APPELLANTS: RESPONDENTS IN WP(C):

1. THE STATE OF KERALA,
REP.BY THE CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. THE DISTRICT COLLECTOR, THRISSUR.
3. THE REVENUE DIVISIONAL OFFICER,
THRISSUR.
4. THE TALUK TAHSILDAR, THRISSUR.

BY GOVERNMENT PLEADER MR.T.B.HOOD

RESPONDENTS: PETITIONER IN THE WP(C):

BANERJI MEMORIAL CLUB, ROUND NORTH,
THRISSUR 680 001,
REPRESENTED BY ITS SECRETARY, DR.TONY AKKARA.

BY SR.ADV.MR.K.P.DANDAPANI

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.1329 of 2007

Dated, this the 8th day of June, 2007

JUDGMENT

H.L.Dattu, C.J.

Challenging the correctness or otherwise of the orders passed by the learned Single Judge in W.P.(C) No.16942 of 2007 dated 4th June, 2007, the respondents in the writ petition have filed the present writ appeal.

2. The petitioner in the writ petition had questioned the correctness or otherwise of the orders passed by the Revenue Divisional Officer, Thrissur in Case No.A1-2428/2007 dated 31.5.2007. By the impugned order the Revenue Divisional Officer has confirmed the orders passed by the Tahsildar, Thrissur and also has vacated the interim orders granted earlier.

3. It is the grievance of the petitioner before this Court in the writ petition that the said order was served on them on 2.6.2007 and immediately thereafter, i.e. on 4.6.2007 itself the respondents have taken forcible possession of the property in dispute.

4. The learned Single Judge after entertaining the writ petition and after hearing counsel on both sides, has disposed of the writ petition and further directed the respondents to hand over possession of the building forthwith to the petitioner. Aggrieved by the orders and directions so issued by the learned Single Judge, the respondents in the writ petition have presented this writ appeal.

5. The learned counsel for the State vehemently contends before this Court that the respondent in the writ appeal has no right to continue in possession of the disputed property and therefore, the appellants were justified in taking possession of the building in dispute and therefore again, the learned

Single Judge was not justified in ordering giving back possession of the building to the respondent in the appeal.

6. None of the contentions canvassed by the learned counsel for the appellants would impress us. The appellate authority in exercise of his powers under Section 15 of the Land Conservancy Act has passed the order dated 31.5.2007 rejecting the appeal filed by the respondent herein. If for any reason, the respondent is aggrieved by the said order, they can definitely question the same before the revisional authority as provided under sub-section (2) of Section 16 of the said Act. Without even giving breathing time for the respondent, the appellants herein have taken possession of the disputed property. This action of the appellants, in our opinion, is wholly arbitrary, whimsical and capricious. Keeping all these aspects of the matter in view, the learned Single Judge, in our opinion, has rightly observed that in a hasty manner the appellants could not have taken possession of the building in dispute and thereby depriving a citizen to have recourse to the statutory remedies provided under the Act and therefore, possession of the said building requires to be handed over to the respondent. In our view, the findings and conclusions reached by the learned Single Judge are wholly appropriate in a case of this nature. We do not find any good ground to interfere with the orders passed by the learned Single Judge. Therefore, the writ appeal requires to be rejected and it is rejected. Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE